

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against:**

**DAVID WADE BENATTI ATWOOD, M.D.  
A.K.A. DAVID WADE ATWOOD, M.D.**

**Physician's and Surgeon's  
Certificate No. A 137214**

**Respondent**

**Case No. 800-2015-018436**

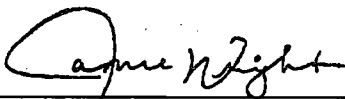
**DECISION AND ORDER**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 2, 2017.**

**IT IS SO ORDERED: October 3, 2017.**

**MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**Jamie Wright, J.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 CHRISTINA L. SEIN  
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8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2015-018436

12 **DAVID WADE BENATTI ATWOOD, M.D.**  
13 **P.O. Box 4098**  
**Riverside, CA 92514**

OAH No. 2017031001

14 **Physician's and Surgeon's Certificate**  
15 **No. A 137214,**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Christina L. Sein,  
24 Deputy Attorney General.

25 2. Respondent David Wade Benatti Atwood, M.D. (Respondent) is represented in this  
26 proceeding by attorney Nathan Mubasher, whose address is: The Law Offices of Nathan  
27 Mubasher, 2621 Green River Rd, Ste 105 PMB 403, Corona, CA 92882.

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3. On or about June 24, 2015, the Board issued Physician's and Surgeon's Certificate No. A 137214 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-018436, and will expire on April 30, 2019, unless renewed.

## JURISDICTION

4. Accusation No. 800-2015-018436 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 24, 2017. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-018436 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-018436. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2015-018436.

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10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 137214 issued to Respondent David Wade Benatti Atwood, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not

1 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
2 illness or condition.

3 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent  
4 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone  
5 number; medication name, strength, and quantity; and issuing pharmacy name, address, and  
6 telephone number.

7 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the  
8 use of products or beverages containing alcohol.

9 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of  
10 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
11 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
12 Respondent shall participate in and successfully complete that program. Respondent shall  
13 provide any information and documents that the program may deem pertinent. Respondent shall  
14 successfully complete the classroom component of the program not later than six (6) months after  
15 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
16 time specified by the program, but no later than one (1) year after attending the classroom  
17 component. The professionalism program shall be at Respondent's expense and shall be in  
18 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

19 A professionalism program taken after the acts that gave rise to the charges in the  
20 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
21 or its designee, be accepted towards the fulfillment of this condition if the program would have  
22 been approved by the Board or its designee had the program been taken after the effective date of  
23 this Decision.

24 Respondent shall submit a certification of successful completion to the Board or its  
25 designee not later than 15 calendar days after successfully completing the program or not later  
26 than 15 calendar days after the effective date of the Decision, whichever is later.

27 4. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of  
28 this Decision, and on whatever periodic basis thereafter may be required by the Board or its

1 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological  
2 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall  
3 consider any information provided by the Board or designee and any other information the  
4 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its  
5 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not  
6 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all  
7 psychiatric evaluations and psychological testing.

8 Respondent shall comply with all restrictions or conditions recommended by the evaluating  
9 psychiatrist within 15 calendar days after being notified by the Board or its designee.

10 5. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,  
11 Respondent shall submit to the Board or its designee for prior approval the name and  
12 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
13 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
14 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
15 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
16 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

17 The psychotherapist shall consider any information provided by the Board or its designee  
18 and any other information the psychotherapist deems relevant and shall furnish a written  
19 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
20 psychotherapist with any information and documents that the psychotherapist may deem  
21 pertinent.

22 Respondent shall have the treating psychotherapist submit quarterly status reports to the  
23 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric  
24 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of  
25 probation, Respondent is found to be mentally unfit to resume the practice of medicine without  
26 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the  
27 period of probation shall be extended until the Board determines that Respondent is mentally fit  
28 to resume the practice of medicine without restrictions.

1 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

2 6. ANGER MANAGEMENT COURSE: Within sixty (60) calendar days of the  
3 effective date of this Decision, Respondent shall enroll in an (1) anger management course and  
4 (2) anger management intensive follow-up equivalent to the course offered at the University of  
5 California - San Diego School of Medicine. Respondent shall successfully complete (1) the anger  
6 management course and (2) the anger management intensive follow-up program no later than six  
7 (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing  
8 to an extension of that time.

9 Respondent shall pay all expenses associated with the course and follow-up program.

10 If Respondent fails to enroll, participate in, or successfully complete the course and follow-  
11 up program within the designated time period, Respondent shall receive a notification from the  
12 Board or its designee to cease the practice of medicine within three (3) calendar days after being  
13 so notified. Respondent shall not resume the practice of medicine until enrollment or  
14 participation in the outstanding portions of the clinical training program have been completed. If  
15 the Respondent did not successfully complete the clinical training program, the Respondent shall  
16 not resume the practice of medicine until a final decision has been rendered on the accusation  
17 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of  
18 the probationary time period.

19 7. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)  
20 days of the effective date of this Decision, Respondent shall provide to the Board the names,  
21 physical addresses, mailing addresses, and telephone numbers of any and all employers and  
22 supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's  
23 worksite monitor, and Respondent's employers and supervisors to communicate regarding  
24 Respondent's work status, performance, and monitoring.

25 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or  
26 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff  
27 privileges.

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1           8.   BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
2 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.  
3 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair  
4 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall  
5 make daily contact with the Board or its designee to determine whether biological fluid testing is  
6 required. Respondent shall be tested on the date of the notification as directed by the Board or its  
7 designee. The Board may order a Respondent to undergo a biological fluid test on any day, at  
8 any time, including weekends and holidays. Except when testing on a specific date as ordered by  
9 the Board or its designee, the scheduling of biological fluid testing shall be done on a random  
10 basis. The cost of biological fluid testing shall be borne by the Respondent.

11           During the first year of probation, Respondent shall be subject to 52 to 104 random tests.  
12 During the second year of probation and for the duration of the probationary term, up to five (5)  
13 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no  
14 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing  
15 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number  
16 of random tests to the first-year level of frequency for any reason.

17           Prior to practicing medicine, Respondent shall contract with a laboratory or service,  
18 approved in advance by the Board or its designee, that will conduct random, unannounced,  
19 observed, biological fluid testing and meets all of the following standards:

- 20           (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry  
21 Association or have completed the training required to serve as a collector for the United  
22 States Department of Transportation.
- 23           (b) Its specimen collectors conform to the current United States Department of  
24 Transportation Specimen Collection Guidelines.
- 25           (c) Its testing locations comply with the Urine Specimen Collection Guidelines published  
26 by the United States Department of Transportation without regard to the type of test  
27 administered.
- 28           (d) Its specimen collectors observe the collection of testing specimens.



1 (e) Its laboratories are certified and accredited by the United States Department of Health  
2 and Human Services.

3 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day  
4 of receipt and all specimens collected shall be handled pursuant to chain of custody  
5 procedures. The laboratory shall process and analyze the specimens and provide legally  
6 defensible test results to the Board within seven (7) business days of receipt of the  
7 specimen. The Board will be notified of non-negative results within one (1) business day  
8 and will be notified of negative test results within seven (7) business days.

9 (g) Its testing locations possess all the materials, equipment, and technical expertise  
10 necessary in order to test Respondent on any day of the week.

11 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens  
12 for the detection of alcohol and illegal and controlled substances.

13 (i) It maintains testing sites located throughout California.

14 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line  
15 computer database that allows the Respondent to check in daily for testing.

16 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff  
17 access to drug test results and compliance reporting information that is available 24 hours a  
18 day.

19 (l) It employs or contracts with toxicologists that are licensed physicians and have  
20 knowledge of substance abuse disorders and the appropriate medical training to interpret  
21 and evaluate laboratory biological fluid test results, medical histories, and any other  
22 information relevant to biomedical information.

23 (m) It will not consider a toxicology screen to be negative if a positive result is obtained  
24 while practicing, even if the Respondent holds a valid prescription for the substance.

25 Prior to changing testing locations for any reason, including during vacation or other travel,  
26 alternative testing locations must be approved by the Board and meet the requirements above.

27 The contract shall require that the laboratory directly notify the Board or its designee of  
28 non-negative results within one (1) business day and negative test results within seven (7)

1 business days of the results becoming available. Respondent shall maintain this laboratory or  
2 service contract during the period of probation.

3 A certified copy of any laboratory test result may be received in evidence in any  
4 proceedings between the Board and Respondent.

5 If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
6 administered to himself or herself a prohibited substance, the Board shall order Respondent to  
7 cease practice and instruct Respondent to leave any place of work where Respondent is practicing  
8 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
9 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
10 provide medical services while the cease-practice order is in effect.

11 A biological fluid test will not be considered negative if a positive result is obtained while  
12 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
13 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

14 After the issuance of a cease-practice order, the Board shall determine whether the positive  
15 biological fluid test is in fact evidence of prohibited substance use by consulting with the  
16 specimen collector and the laboratory, communicating with the licensee, his or her treating  
17 physician(s), other health care provider, or group facilitator, as applicable.

18 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the  
19 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

20 For purposes of this condition, the term "prohibited substance" means an illegal drug, a  
21 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by  
22 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been  
23 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

24 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
25 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the  
26 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
27 any other terms or conditions the Board determines are necessary for public protection or to  
28 enhance Respondent's rehabilitation.

1           9.    SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of  
2 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its  
3 prior approval, the name of a substance abuse support group which he or she shall attend for the  
4 duration of probation. Respondent shall attend substance abuse support group meetings at least  
5 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance  
6 abuse support group meeting costs.

7           The facilitator of the substance abuse support group meeting shall have a minimum of three  
8 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed  
9 or certified by the state or nationally certified organizations. The facilitator shall not have a  
10 current or former financial, personal, or business relationship with Respondent within the last five  
11 (5) years. Respondent's previous participation in a substance abuse group support meeting led by  
12 the same facilitator does not constitute a prohibited current or former financial, personal, or  
13 business relationship.

14           The facilitator shall provide a signed document to the Board or its designee showing  
15 Respondent's name, the group name, the date and location of the meeting, Respondent's  
16 attendance, and Respondent's level of participation and progress. The facilitator shall report any  
17 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
18 or its designee, within twenty-four (24) hours of the unexcused absence.

19           10.   WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty  
20 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or  
21 its designee for prior approval as a worksite monitor, the name and qualifications of one or more  
22 licensed physician and surgeon, other licensed health care professional if no physician and  
23 surgeon is available, or, as approved by the Board or its designee, a person in a position of  
24 authority who is capable of monitoring the Respondent at work.

25           The worksite monitor shall not have a current or former financial, personal, or familial  
26 relationship with Respondent, or any other relationship that could reasonably be expected to  
27 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
28 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite

1 monitor, this requirement may be waived by the Board or its designee, however, under no  
2 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

3 The worksite monitor shall have an active unrestricted license with no disciplinary action  
4 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
5 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
6 by the Board or its designee.

7 Respondent shall pay all worksite monitoring costs.

8 The worksite monitor shall have face-to-face contact with Respondent in the work  
9 environment on as frequent a basis as determined by the Board or its designee, but not less than  
10 once per week; interview other staff in the office regarding Respondent's behavior, if requested  
11 by the Board or its designee; and review Respondent's work attendance.

12 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
13 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected  
14 substance abuse does not occur during the Board's normal business hours, the verbal report shall  
15 be made to the Board or its designee within one (1) hour of the next business day. A written  
16 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and  
17 any other information deemed important by the worksite monitor shall be submitted to the Board  
18 or its designee within 48 hours of the occurrence.

19 The worksite monitor shall complete and submit a written report monthly or as directed by  
20 the Board or its designee which shall include the following: (1) Respondent's name and  
21 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)  
22 the worksite monitor's license number, if applicable; (4) the location or location(s) of the  
23 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the  
24 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;  
25 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can  
26 lead to suspected substance abuse by Respondent. Respondent shall complete any required  
27 consent forms and execute agreements with the approved worksite monitor and the Board, or its  
28 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

1 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)  
2 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior  
3 approval, the name and qualifications of a replacement monitor who will be assuming that  
4 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a  
5 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the  
6 monitor, Respondent shall receive a notification from the Board or its designee to cease the  
7 practice of medicine within three (3) calendar days after being so notified. Respondent shall  
8 cease the practice of medicine until a replacement monitor is approved and assumes monitoring  
9 responsibility.

10 11. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING  
11 LICENSEES. Failure to fully comply with any term or condition of probation is a violation of  
12 probation.

13 A. If Respondent commits a major violation of probation as defined by section  
14 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take  
15 one or more of the following actions:

16 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical  
17 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of  
18 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice  
19 order issued by the Board or its designee shall state that Respondent must test negative for at least  
20 a month of continuous biological fluid testing before being allowed to resume practice. For  
21 purposes of determining the length of time a Respondent must test negative while undergoing  
22 continuous biological fluid testing following issuance of a cease-practice order, a month is  
23 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until  
24 notified in writing by the Board or its designee that he or she may do so.

25 (2) Increase the frequency of biological fluid testing.

26 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or  
27 other action as determined by the Board or its designee.

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1 B. If Respondent commits a minor violation of probation as defined by section  
2 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take  
3 one or more of the following actions:

- 4 (1) Issue a cease-practice order;
- 5 (2) Order practice limitations;
- 6 (3) Order or increase supervision of Respondent;
- 7 (4) Order increased documentation;
- 8 (5) Issue a citation and fine, or a warning letter;
- 9 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in  
10 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of  
11 Regulations, at Respondent's expense;
- 12 (7) Take any other action as determined by the Board or its designee.

13 C. Nothing in this Decision shall be considered a limitation on the Board's authority  
14 to revoke Respondent's probation if he or she has violated any term or condition of probation. If  
15 Respondent violates probation in any respect, the Board, after giving Respondent notice and the  
16 opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
17 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed  
18 against Respondent during probation, the Board shall have continuing jurisdiction until the matter  
19 is final, and the period of probation shall be extended until the matter is final.

20 12. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
21 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
22 Chief Executive Officer at every hospital where privileges or membership are extended to  
23 Respondent, at any other facility where Respondent engages in the practice of medicine,  
24 including all physician and locum tenens registries or other similar agencies, and to the Chief  
25 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
26 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
27 calendar days.

28 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

1        13. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
2 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
3 advanced practice nurses.

4        14. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
5 governing the practice of medicine in California and remain in full compliance with any court  
6 ordered criminal probation, payments, and other orders.

7        15. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
8 under penalty of perjury on forms provided by the Board, stating whether there has been  
9 compliance with all the conditions of probation.

10        Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
11 of the preceding quarter.

12        16. GENERAL PROBATION REQUIREMENTS.

13        Compliance with Probation Unit

14        Respondent shall comply with the Board's probation unit.

15        Address Changes

16        Respondent shall, at all times, keep the Board informed of Respondent's business and  
17 residence addresses, email address (if available), and telephone number. Changes of such  
18 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
19 circumstances shall a post office box serve as an address of record, except as allowed by Business  
20 and Professions Code section 2021(b).

21        Place of Practice

22        Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
23 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
24 facility.

25        License Renewal

26        Respondent shall maintain a current and renewed California physician's and surgeon's  
27 license.

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1        Travel or Residence Outside California

2        Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
3 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
4 (30) calendar days.

5        In the event Respondent should leave the State of California to reside or to practice,  
6 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
7 departure and return.

8        17. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
9 available in person upon request for interviews either at Respondent's place of business or at the  
10 probation unit office, with or without prior notice throughout the term of probation.

11        18. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
12 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
13 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
14 defined as any period of time Respondent is not practicing medicine as defined in Business and  
15 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
16 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
17 Respondent resides in California and is considered to be in non-practice, Respondent shall  
18 comply with all terms and conditions of probation. All time spent in an intensive training  
19 program which has been approved by the Board or its designee shall not be considered non-  
20 practice and does not relieve Respondent from complying with all the terms and conditions of  
21 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
22 on probation with the medical licensing authority of that state or jurisdiction shall not be  
23 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
24 period of non-practice.

25        In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
26 months, Respondent shall successfully complete the Federation of State Medical Boards's Special  
27 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
28 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model



1 Disciplinary Orders and Disciplinary Guidelines” prior to resuming the practice of medicine.

2 Respondent’s period of non-practice while on probation shall not exceed two (2) years.

3 Periods of non-practice will not apply to the reduction of the probationary term.

4 Periods of non-practice for a Respondent residing outside of California will relieve  
5 Respondent of the responsibility to comply with the probationary terms and conditions with the  
6 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
7 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
8 Controlled Substances; and Biological Fluid Testing.

9 19. COMPLETION OF PROBATION. Respondent shall comply with all financial  
10 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
11 completion of probation. Upon successful completion of probation, Respondent’s certificate shall  
12 be fully restored.

13 20. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
14 of probation is a violation of probation. If Respondent violates probation in any respect, the  
15 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
16 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke  
17 Probation, or an Interim Suspension Order is filed against Respondent during probation, the  
18 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall  
19 be extended until the matter is final.

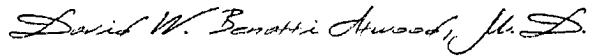
20 21. LICENSE SURRENDER. Following the effective date of this Decision, if  
21 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
22 the terms and conditions of probation, Respondent may request to surrender his or her license.  
23 The Board reserves the right to evaluate Respondent’s request and to exercise its discretion in  
24 determining whether or not to grant the request, or to take any other action deemed appropriate  
25 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
26 shall within 15 calendar days deliver Respondent’s wallet and wall certificate to the Board or its  
27 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
28 to the terms and conditions of probation. If Respondent re-applies for a medical license, the

1 application shall be treated as a petition for reinstatement of a revoked certificate.

2 22. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
3 with probation monitoring each and every year of probation, as designated by the Board, which  
4 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
5 California and delivered to the Board or its designee no later than January 31 of each calendar  
6 year.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
9 discussed it with my attorney, Nathan Mubasher. I understand the stipulation and the effect it  
10 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
11 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
12 Decision and Order of the Medical Board of California.

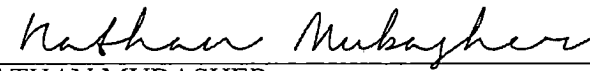
13 

14 DATED: 07/28/2017

15 DAVID WADE BENATTI ATWOOD, M.D.  
Respondent

16 I have read and fully discussed with Respondent David Wade Benatti Atwood, M.D. the  
17 terms and conditions and other matters contained in the above Stipulated Settlement and  
18 Disciplinary Order. I approve its form and content.

19 DATED: 07/28/2017

20   
NATHAN MUBASHER  
Attorney for Respondent

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24 [Endorsement on following page]  
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Dated: 7/31/17

XAVIER BECERRA  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General

ChD.

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**Exhibit A**

**Accusation No. 800-2015-018436**

KATHLEEN A. KENEALY  
Acting Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
CHRISTINA L. SEIN  
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Facsimile: (213) 897-9395  
*Attorneys for Complainant*

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2015-018436

**David Wade Benatti Atwood, M.D. a.k.a.  
David Wade Atwood, M.D.  
P.O. Box 4098  
Riverside, CA 92514**

**A C C U S A T I O N**

**Physician's and Surgeon's Certificate  
No. A 137214,**

Respondent.

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about June 24, 2015, the Medical Board issued Physician's and Surgeon's Certificate Number A 137214 to David Wade Benatti Atwood, M.D. a.k.a. David Wade Atwood, M.D. (Respondent). The Physician's and Surgeon's Certificate is in full force and effect and will expire on April 30, 2017, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234, subdivision (a), of the Code states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"(b) The district attorney, city attorney, or other prosecuting agency shall notify the Division of Medical Quality of the pendency of an action against a licensee charging a felony or misdemeanor immediately upon obtaining information that the defendant is a licensee. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license as a physician and surgeon.

"(c) The clerk of the court in which a licensee is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the board. The division may inquire into the circumstances surrounding the commission of a crime in order to fix

1 the degree of discipline or to determine if the conviction is of an offense substantially related to the  
2 qualifications, functions, or duties of a physician and surgeon.

3 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to  
4 be a conviction within the meaning of this section and Section 2236.1. The record of conviction  
5 shall be conclusive evidence of the fact that the conviction occurred.”

6 7. Section 2239 of the Code states:

7 “(a) The use or prescribing for or administering to himself or herself, of any controlled  
8 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic  
9 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to  
10 any other person or to the public, or to the extent that such use impairs the ability of the licensee  
11 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
12 consumption, or self-administration of any of the substances referred to in this section, or any  
13 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
14 conclusive evidence of such unprofessional conduct.

15 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is  
16 deemed to be a conviction within the meaning of this section. The Division of Medical Quality  
17 may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing  
18 may order the denial of the license when the time for appeal has elapsed or the judgment of  
19 conviction has been affirmed on appeal or when an order granting probation is made suspending  
20 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4  
21 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of  
22 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint,  
23 information, or indictment.”

24 8. California Code of Regulations, title 16, section 1360, states:

25 “For the purposes of denial, suspension or revocation of a license, certificate or permit  
26 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
27 considered to be substantially related to the qualifications, functions or duties of a person holding a  
28 license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences

1 present or potential unfitness of a person holding a license, certificate or permit to perform the  
2 functions authorized by the license, certificate or permit in a manner consistent with the public  
3 health, safety or welfare. Such crimes or acts shall include but not be limited to the following:  
4 Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of,  
5 or conspiring to violate any provision of the Medical Practice Act.”

6 **FIRST CAUSE FOR DISCIPLINE**  
7 **(Conviction of a Crime Substantially Related to the Qualifications, Functions, or Duties of**  
8 **Physician and Surgeon)**

9 9. Respondent’s license is subject to disciplinary action under sections 2236, subdivisions  
10 (a) and (d), and 2239, subdivision (a), of the Code, in that he was convicted of a crime, to wit:  
11 violation of Penal Code section 273.5, subdivision (a) [corporal injury on spouse or cohabitant],  
12 substantially related to the qualifications, functions or duties of a physician and surgeon, as more  
13 particularly alleged hereinafter:

14 10. Respondent is a physician and surgeon licensed to practice in California.

15 11. On or about January 25, 2015, at approximately 7:34 pm, San Diego Police  
16 Department officers responded to a call of domestic violence. An officer spoke with V.A., who  
17 related that Respondent, her former husband and current cohabitant, while intoxicated, struck their  
18 daughter, C.A., in the face and pushed V.A. down the stairs. The officer observed redness and  
19 bruising to the side of C.A.’s face and abrasions to both of V.A.’s knees.

20 12. The officer spoke to Respondent at the scene and reported that he was extremely  
21 intoxicated. Based on the officer’s observations as well as the statement of V.A., the officer  
22 placed Respondent under arrest. The officer also obtained statements from C.A. and P.A., minor  
23 daughters of Respondent and V.A. C.A. reported that Respondent hit her in the face and pushed  
24 V.A. down the stairs. P.A. reported that she saw Respondent push V.A. down the stairs.

25 13. On or about March 30, 2015, in the case entitled *The People of the State of California*  
26 *v. David Wade Atwood*, San Diego Superior Court, Case No. M195506DV, Respondent pled  
27 guilty to Counts One and Seven, misdemeanors, for violation of Penal Code section 273.5,  
28 subdivision (a) [corporal injury on spouse or cohabitant], admitting that he willfully and unlawfully  
inflicted corporal injury to V.A., who was his former spouse.



14. Respondent was placed, among other things, on five years' probation, spent 30 days in jail, paid fines and fees, and was ordered to complete 100 hours of volunteer work, a one-year parenting course, a one-year domestic violence recovery program, and a six-month SCRAM (Systems Alcohol and Location Monitoring) program.

15. During an interview with Board investigators, Respondent admitted that he had a drinking problem.

## SECOND CAUSE FOR DISCIPLINE

**(Use of Alcohol in Manner Dangerous or Injurious to Himself or to Others)**

16. Respondent's license is further subject to disciplinary action under section 2239 of the Code, in that he has used alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to himself, to any other person or to the public, as more particularly alleged in paragraphs 10 through 15 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

### THIRD CAUSE FOR DISCIPLINE

**(General Unprofessional Conduct)**

17. Respondent is further subject to disciplinary action under sections 2234 and 2239 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 10 through 15 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

#### FOURTH CAUSE FOR DISCIPLINE

**(Violation of the State Medical Practice Act)**

18. Respondent is further subject to disciplinary action under sections 2234, subdivision (a), of the Code, and California Code of Regulations, title 16, section 1360, in that he has violated a provision or provisions of the Medical Practice Act, as more particularly alleged in paragraphs 10 through 15, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 137214, issued to Respondent;
2. Revoking, suspending or denying approval of Respondent's authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: January 24, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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